

Sixth Appellate District

San Jose, California

MONDAY, AUGUST 30, 2010

H033984 CITY OF WATSONVILLE v. TANSY, et al.

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed August 30, 2010

H033631 AJAXO INC. v. E*TRADE FINANCIAL CORPORATION

The judgment is reversed. The matter is remanded to the trial court to conduct further proceedings in accordance with the opinions expressed herein. The parties shall bear their own costs on appeal. (published)

(Premo, J.; We concur: Rushing, P.J., Duffy, J.)

Filed August 30, 2010

H035440 PEOPLE v. SEDILLO

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed August 30, 2010

H034788 PEOPLE v. REYES

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed August 30, 2010

H034217 CIRAULO PLUMBING, INC. v. GILROY CONSTRUCTION, INC., et al.

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed August 30, 2010

H034300 PEOPLE v. TORRES

The matching restitution and parole revocation fines imposed under section 1202.4 and 1202.45 are reduced from \$6,400 each to \$4,800 each. As modified, the judgment is affirmed. The Clerk of the Santa Clara County Superior Court is directed to prepare a corrected abstract of judgment that reflects the reduction in the amount of the fines. (not published)

(Rushing, P.J.; We concur: Premo, J., Duffy, J.)

Filed August 30, 2010

Sixth Appellate District

San Jose, California

Monday, August 30, 2010 (continued)

H033879 PEOPLE v. EDMONDS, JR.

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed August 30, 2010

H034997 PEOPLE v. CONTRERAS

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 30, 2010

H034324 BURDETT v. OLSON & COMPANY, et al.; SELANDER v. VALENTINE

The order appealed from is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed August 30, 2010

H034763 PEOPLE v. BODILY

The matter is remanded with directions to (1) reduce the court security fee from \$30 to \$20, (2) prepare an amended abstract of judgment reflecting this modification and separately listing each fine, fee, or other monetary charge imposed, specifying the statutory basis for each; and (3) transmit the amended abstract to correctional authorities. In all other respects, the judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed August 30, 2010

H033913 CRITZER et al. v. ENOS et al.

The order granting the motion to enforce settlement pursuant to section 664.6, amended to constitute a final appealable judgment (*Hines v. Lukes, supra*, 167 Cal.App.4th at p. 1183), is reversed. (published)
(Duffy, J.; We concur: Rushing, P.J., Elia, J.)
Filed August 30, 2010

H034365 PEOPLE v. ANGUIANO

The judgment is reversed, and matter is remanded to the trial court to allow defendant to withdraw his plea. (not published)
(Bamattre-Manoukian, Acting P.J.; I concur: McAdams, J.; Dissenting opinion by Mihara, J.)
Filed August 30, 2010

Sixth Appellate District

San Jose, California

Monday, August 30, 2010 (continued)

H033004 PEOPLE V. VEGA

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed August 30, 2010

H033795 PEOPLE v. PURCELL

The order is reversed, and the case is remanded to the trial court for the limited purpose of considering defendant's equal protection argument in light of *McKee, supra*, 47 Cal.4th 1172. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed August 30, 2010

TUESDAY, AUGUST 31, 2010

H034454 PEOPLE v. PACHECO

The judgment is modified to delete the \$100 attorney fee order, the \$259.50 criminal justice administration fee, and the \$64 per month probation supervision fee. The matter is remanded with directions to the trial court to determine, in accordance with the applicable statutes, Pacheco's ability to pay any such fines or fees before imposing them. If any order directing payment of attorney fees or imposing probation supervision fees is entered on remand, the order will make clear that these items are not conditions of probation. The judgment is further modified to delete the \$20 court security fee as a condition of probation and to clarify that this fee is a separate order, and to delete the \$30 fee that the trial court did not impose. The clerk of the superior court is further directed to correct the minutes to delete this fee. As so modified, the judgment is affirmed.
(published)
(Duffy, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 31, 2010

H035080 In re S.T.; SANTA CRUZ HUMAN SERVICES DEPT. v. D.M.

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed August 31, 2010

The following case is submitted this date:

H035508 PEOPLE v. HUYNH

Sixth Appellate District

San Jose, California

Tuesday, August 31, 2010 (continued)

H035508 PEOPLE v. HUYNH

The purported appeal from the order denying defendant's motion to vacate judgment is dismissed. (not published)

(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed August 31, 2010

H035128 PEOPLE v. PORTER

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed August 31, 2010

WEDNESDAY, SEPTEMBER 1, 2010

H034853 MILPITAS UNIFIED SCHOOL DISTRICT v. WCAB and GUZMAN

Filed modification of opinion with no change in the judgment. (published)

(Elia, J., Premo, Acting P.J., Duffy, J.)

Filed September 1, 2010

H035257 PEOPLE v. CASAREZ, JR.

The matter came on calendar for an Order to Show Cause hearing for Court Reporter Melissa Williams before Rushing, P.J. Melissa Williams was sworn and testified. The court imposes a one thousand dollar fine to court reporter Williams. The fine will be suspended for one year if court reporter Williams submits her transcripts timely. The fine will permanently be suspended after a year. Court adjourns.

THURSDAY, SEPTEMBER 2, 2010

The following case is submitted this date:

H034358 PEOPLE v. JOHNSON

H034676 PEOPLE v. NURISTANI

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Duffy, J.)

Filed September 2, 2010

Sixth Appellate District

San Jose, California

Thursday, September 2, 2010 (continued)

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Duffy, J.; and Beth Miller, Deputy Clerk.

H034695 PEOPLE v. GONZALEZ

Cause called and argued by Jill A. Fordyce appearing for Appellant and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H032752 PEOPLE v. UCKELE

Cause called and argued by Mark Greenberg appearing for Appellant and by Masha Daviza, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H033941 NORKS v. ENDOVASCULAR TECHNOLOGIES, INC., et al.

Cause called and argued by Joseph E. Russell appearing for Appellant and by Sean Saxon appearing for Respondents. Cause ordered submitted.

H033951 ROBINSON v. ENDOVASCULAR TECHNOLOGIES, INC., et al.

Cause called and argued by Joseph E. Russell appearing for Appellant and by Sean Saxon appearing for Respondents. Cause ordered submitted.

Mihara, J. leaves the bench and McAdams, J. takes the bench.

H033940 PEOPLE v. WILLIAMS

Cause called and argued by Ian Kelly appearing for Appellant and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Manoukian, Acting P.J. leaves the bench and Mihara, Acting P.J. takes the bench.

H031707 BERKMAN, et al. v. CITY OF MORGAN HILL; RASMUSSEN

Cause called and argued by Kevin A. Goldman appearing for Appellants Berkman, et al., by Mark L. Mosely appearing for Respondent Rasmussen, and by John Flegal appearing for Appellant City of Morgan Hill. Cause ordered submitted.

H031707 BERKMAN, et al. v. CITY OF MORGAN HILL; RASMUSSEN

Cause called and argued by Mark L. Mosely appearing for Appellant Rasmussen and by Kevin A. Goldman appearing for Appellants Berkman, et al. Cause ordered submitted. Court is in recess.

Sixth Appellate District

San Jose, California

Thursday, September 2, 2010 (continued)

H034085 PEOPLE v. RIOS

We reverse the true findings on the Penal Code section 12022.55 enhancements. We remand with instructions that the People may, if they choose, retry appellant on the Penal Code section 12022.55 enhancement allegations within 60 days after the filing of the remittitur in the trial court pursuant to Penal Code section 1382, subdivision 2, unless time is waived by defendant, but if the People do not choose the retrial option, the trial court is to resentence appellant on counts one, two, three and four. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed September 2, 2010

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; McAdams, J.; and Jossie Michel, Deputy Clerk.

H035112 PEOPLE v. S.R.

Cause called and argued by Morgan C. Taylor appearing for Appellant and by Michael E. Banister, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H034230 PEOPLE v. AVILA

Cause called and argued by Karl W. Krooth appearing for Appellant and by Margo J. Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. The court stands in adjournment.

H034952 ASTER v. WARD, et al.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: September 2, 2010

*Before Rushing, P.J., Premo, J. and Duffy, J.

H034614 PEOPLE v. OKOH

By the Court*:

Appellant's petition for rehearing is denied.

Filed: September 2, 2010

*Before Premo, Acting P.J., Elia, J. and McAdams, J.

Sixth Appellate District

San Jose, California

Thursday, September 2, 2010 (continued)

H035268 PEOPLE v. JOHNSON

By the Court:

Pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, on May 15, 2009, Donald Freeman, attorney for the City of Seaside, and Chief Lumpkin, custodian of the personnel records for the City of Seaside Police Department, presented confidential records for in camera review by Monterey County Superior Court Judge Russell D. Scott in connection with Monterey County Superior Court case number SS081663A. These records included at least parts of the personnel files and internal affairs files of Seaside Police Officer Nicolas Borges. Defendant Johnson has filed an opening brief on appeal requesting the Court to independently review the sealed record pertaining to his *Pitchess* motion. The Attorney General has filed a responsive brief agreeing that defendant is entitled to independent review of the personnel records actually examined by the trial court. Accordingly, the Attorney General is ordered to lodge with the clerk of this court within 20 days of the date of this order the original records or copies of the records reviewed by Judge Scott. These records shall be lodged under seal and will be returned to the City after review by this court. (Cal. Rules of Court, rules 2.585, 2.551(g).) The submission order in this case dated August 24, 2010 is hereby vacated. The cause will be resubmitted upon the court's review of the aforementioned records.

Dated: September 2, 2010

McAdams, Acting P.J.

FRIDAY, SEPTEMBER 3, 2010

H035244 PEOPLE v. BLACKBURN

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed September 3, 2010

H034019 MANSON, as Trustee, etc. v. SHEPHERD et al.

The trial court's order of February 9, 2009, is affirmed. The parties shall bear their own costs on appeal and cross-appeal. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Duffy, J.)

Filed September 3, 2010

Sixth Appellate District

San Jose, California

Friday, September 3, 2010 (continued)

The following cases are submitted this date:

H034417 PATEL, et al. v. DELEBECQ

H035161 PEOPLE v. FLORES

H035419 PEOPLE v. JENKINS

H034932 PEOPLE v. PEDRANO

H034840 PEOPLE v. SHIPP

H034215 PEOPLE v. BAILEY

H034587 PEOPLE v. ZENDEJAS

H035343 PEOPLE v. ZENDEJAS

H034918 PEOPLE v. PAGAN

H034991 PEOPLE v. JARROUCHE

H035285 PEOPLE v. RICHARD

H034742 PEOPLE v. BARRAJAS

H034771 PEOPLE v. HUTCHINSON

H035238 PEOPLE v. LOPEZ

H035358 PEOPLE v. SANTOYO

H034803 PEOPLE v. CLENNELL

H034940 PEOPLE v. MOORE